CCRB INVESTIGATIVE RECOMMENDATION

Alex Guinn Incident Date(s) Wednesday, 06/16/2021 8:10 AM Date/Time CV Reported	Squad #14 Location of Incident: Rockaway Parkway an		Abuse Precinct:	☐ O.L.	☐ Injury EO SOL
Wednesday, 06/16/2021 8:10 AM		od Clanwood Dood	Precinct:	18 Mo. SOL	EO SOL
•	Rockaway Parkway an	d Clanwood Bood			1
Date/Time CV Reported		id Gleliwood Road	69	12/16/2022	12/16/2022
	CV Reported At:	How CV Reported:	Date/Time	Received at CCR	ιB
Sun, 06/20/2021 8:59 PM	CCRB	On-line website	Sun, 06/20	/2021 8:59 PM	
Complainant/Victim T	Type Home Addre	ess			
Subject Officer(s) S	hield TaxID	Command			
1. POM Scott Mark 2	7345 950823	069 PCT			
2. PO Moahmmad Uddin 1-	4848 956309	069 PCT			
Officer(s) A	llegation		Investigator Recommendation		
A.POM Scott Mark A	Abuse: Police Officer Scott Mar	k questioned § 87(2)(b)			
\$ \$7(2)(a)	27(2)(g)				
8 6 (2)(5)	· (=)(<u>=</u>)				
Complainant/Victim Subject Officer(s) Subject Officer(s) POM Scott Mark 2. PO Moahmmad Uddin Officer(s) A.POM Scott Mark A.POM Scott Mark	Home Address hield TaxID 7345 950823 4848 956309	Command 069 PCT 069 PCT			nmendati

Case Summary

On June 20, 2021, \$\frac{\$\frac{\$\sigma(2)(b)}{2}}\$ filed the following complaint via the CCRB's website. On June 16, 2021, at approximately 8:10 a.m., \$\frac{\$\sigma(2)(b)}{2}\$ made an illegal left turn in the vicinity of Rockaway Parkway and Glenwood Road in Brooklyn. As a result, Police Officer Scott Mark and Police Officer Moahmmad Uddin, both of the 69th Precinct, conducted a vehicle stop of PO Mark advised \$\frac{\$\sigma(2)(b)}{2}\$ that she committed a traffic violation and he asked her if she was in possession of a firearm (Allegation A: Abuse of Authority, \$\frac{\$\sigma(2)(b)}{2}\$.

No arrests resulted from this incident; however, \$\frac{\$\sigma(2)(b)}{2}\$ was issued a summons for a disobeyed traffic device.

BWC was received for PO Mark, the relevant aspects of which will be discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Scott Mark questioned The investigation established the following facts:

On June 16, 2021, at approximately 8:10 a.m., \$37(2)(6) was driving alone in her vehicle on Rockaway Parkway in Brooklyn when she unknowingly made an illegal left turn onto Glenwood Road. As a result, PO Mark and PO Uddin conducted a vehicle stop. \$87(2)(6) interacted exclusively with PO Mark, as PO Uddin stood near the patrol vehicle, and watched oncoming traffic. During the stop, \$87(2)(b) informed PO Mark that her driver's license was in her bookbag, which was on her backseat. Thus, \$87(2)(b) exited her vehicle in order to retrieve her license from her bookbag. As \$87(2)(b) was retrieving her license from her bookbag, PO Mark asked if she had a gun, in which § 87(2)(b) said no, and provided PO Mark her license. At some point, PO Mark did advise \$87(2)(b) that that she made an illegal left turn, as the sign on Rockaway Parkway stated no left turns, Monday through Friday from 6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 7:00 p.m., except buses. Subsequently, PO Mark issued \$37(2)(6) a summons for a disobeyed traffic device (BR 01), and he left the scene.

testified that she was a schoolteacher and on the date of the incident she was on her way to work. § 87(2)(b) further testified that after she was stopped by PO Mark and was informed of her traffic violation, she told PO Mark that she was a schoolteacher and her license was in her wallet, which was located in her bookbag behind the driver's seat, and that she thus needed to exit her vehicle in order to retrieve it. PO Mark moved away from \$37(2)(6) s front driver's side door in order for her to get out of her vehicle. \$87(2)(6) proceeded to open the rear-driver's side door, and PO Mark stood right next to \$87(2)(b) s elbow as she did so. § 87(2)(b) pink flower print Herschel-brand bookbag off the floor and placed it on the back seat. The bookbag was non-transparent, cloth, with two straps, a main compartment, and a small compartment located at the top of the bookbag. The main compartment had \$87(2)(6) solutions is laptop, a notebook planner (without spirals), and a bag with her flash-drive, EpiPen, and tampons. §87(2)(b) the smaller compartment, which was big enough to hold a small wallet and a cellphone. did not notice any bulges in her bookbag. After \$87(2)(b) lifted her bookbag on the back seat, PO Mark said "you got a gun in there [bookbag]?" \$87(2)(b) had not opened her bookbag at this point, nor did she make any movements other than lift her bookbag onto the seat. responded, "why would I have a gun in my bag? I'm going to school with kids." PO Mark said, "oh, I just need to know; I need to ask that" (BR 02).

Beginning at the 1:20 mark of PO Mark's BWC, \$87(2)(b) opens the back door on the driver's side, and the front-driver's side door remains open. \$87(2)(b) picks up her bookbag, and PO Mark immediately says, "no gun in there, right?" \$87(2)(b) s bookbag is partially blocked by her body; however, there are no visible bulges in her bookbag. \$87(2)(b) s bookbag is an average size bookbag that is large enough to hold a laptop. The bookbag appears to be a cloth

material and is pink with flowers. There is a medium sized pocket in the front of her bookbag. At 1:24, \$37(2)(6) responds to PO Mark and says, "to go to school? Yeah, right" and she begins to chuckle. PO Mark says, "got to ask" (BR 03-04). PO Mark testified that \$87(2)(b) s back was facing him as she was in the process of grabbing her bookbag from her backseat. However, PO Mark was able to see that \$87(2)(6) an average size bookbag, that one would use for school or work, with straps. PO Mark did not notice that the bookbag was full, had any bulges, or any indications of any weapons inside the bag. PO Mark did not broadly ask \$87(2)(b) what was inside her bookbag, instead he specifically asked her if she had any guns in her bag, in which server responded, "no, no it's [bookbag] for school." PO Mark testified that he asked \$87(2)(6) if she had a gun in her bag because whenever he conducts a vehicle stop and a passenger needs to access a large bag that he cannot see inside, he always asks the individual if they have any weapons as a safety measure. Although PO Mark did not view \$87(2)(b) as a a threat, he testified that it was a standard safety procedure to ask someone if they had weapons in any bag that he could not visually see through (BR 05). The common-law right to inquire, is activated by a founded suspicion that criminal activity is afoot and permits a somewhat greater intrusion in that a police officer is entitled to interfere with a citizen to the extent necessary to gain explanatory information, but short of a forcible seizure (People v. DeBour, 40 N.Y.2d 210, 1976) (BR 06). It is undisputed that PO Mark questioned \$87(2)(b) about her possession of a firearm. Although PO Mark testified that he asked safety measure, the evidence shows that there was nothing indicating that she had a firearm in her bookbag, as and PO Mark both testified that her bookbag did not have any visible bulges or any indications of a weapon inside, which PO Mark's BWC footage corroborates. Furthermore, the nature of \$87(2)(b) s stop was due to a traffic violation, which she received a summons for, and PO Mark did not attest to any other suspicion that \$87(2)(b) was committing further criminal activity, nor did he view \$87(2)(b) as a threat. Thus, based on the totality of these factors, namely the nature of the initial vehicle stop for a traffic infraction, the lack of any further specific indication that \$57(2)(5) was armed or possessed a firearm, as well as PO Mark's own testimony that he did not perceive \$87(2)(b) to pose any threat, \$87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 08).
- PO Mark has been a member of service for 10 years and has been a subject in four CCRB complaints and six allegations, of which two were substantiated.
 - 201707016 involved a substantiated allegation of discourtesy-word against PO Mark. The Board recommended Command Discipline A and the NYPD imposed Instruction.

- 201801005 involved a substantiated allegation of discourtesy-word against PO
 Mark. The Board recommended Command Discipline A and the NYPD declined to
 prosecute.
- § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of October 28, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 09).

Squad: <u>14</u>		
Investigator: <u>Alex Guinn</u> Signature	Inv. Alex Guinn Print Title & Name	10/29/21 Date
•	IM Coosen due Fembrel	
Squad Leader: <u>Cassandra Fenkel</u> Signature	IM Cassandra Fenkel Print Title & Name	
Reviewer:	Di (Tid 0 N	
Signature	Print Title & Name	Date